LIBRARY
SUPREME COURT, U. S.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970.

No. 654

TIDEE PRODUCTS, INC.,

Petitioner,

and

NATIONAL LABOR RELATIONS BOARD,

vs.

INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, AFL-CIO,

Respondent.

APPENDICES TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

ROY E. BROWNE,
HERSHEY, BROWNE, WILSON, STEEL, COOK & WOLFE,
1910 First National Tower,
Akron, Ohio 44308.

LAWRENCE M. COHEN,
LEDERER, FOX AND GROVE,
111 W. Washington Street,
Chicago, Illinois 60602.
Attorneys for Petitioner, Tidee Products, Inc.

ALAN RAYWID,
COLE, ZYLSTRA & RAYWID,
2011 Eye Street, N.W.,
Washington, D. C. 20006,
Of Counsel.

THE GUNTHORP-WARREN PRINTING COMPANY, CHICAGO

INDEX TO APPENDICES.

PAGE

APPENDIX A:

Statutes Involved 1a

APPENDIX B:

Decision and Order of the National Labor Relations Board dated February 24, 1969..... 2a

Decision of National Labor Relations Board Trial Examiner dated August 28, 1968..... 5a

Opinion of the United States Court of Appeals for the District of Columbia Circuit entered April 3, 1970 ..... 46a

Judgment of the United States Court of Appeals for the District of Columbia Circuit entered May 18, 1970 ..... 70a

Order of the United States Court of Appeals for the District of Columbia Circuit entered May 18, 1970 ..... 71a

Order of the United States Court of Appeals for the District of Columbia Circuit entered July 10, 1970 ..... 72a

Letter dated July 8, 1970 from the Clerk of the United States Court of Appeals for the District of Columbia to Counsel for Petitioner..... 73a

Order of the United States Court of Appeals for the District of Columbia Circuit entered August 7, 1970 ..... 74a

Motion of Tiidee Products, Inc. for Leave to File Second Petition for Rehearing and for Enlargement of Time to File Petition for Rehearing, filed September 1, 1970, presently pending before the United States Court of Appeals for the District of Columbia Circuit 75a

Letter dated April 29, 1970 from Roy E. Browne, Counsel for Petitioner, to John C. Getreu, Regional Director, Ninth Region, National Labor Relations Board 77a

APPENDIX C:

Decision and Order of the National Labor Relations Board in Ex-Cell-O Corporation, 185 NLRB No. 20, dated August 25, 1970, made public August 29, 1970, Appeal Docketed sub. nom. Automobile Workers v. NLRB, No. 24577, D. C. Cir., Aug. 26, 1970 (Trial Examiner's Decision omitted) 79a

APPENDIX A.

Statutes Involved

The following portions of the National Labor Relations Act., as amended (61 Stat. 136, 73 Stat. 519, 29 U. S. C. Sec. 151, *et seq.*), are involved in this case:

Section 8(a):

"It shall be an unfair labor practice for an employer—

* * * * * *

"(5) to refuse to bargain collectively with the representatives of his employees. . . ."

Section 8(d):

"For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment . . . but such obligation does not compel either party to agree to a proposal or require the making of a concession. . . ."

Section 10(c):

"The testimony taken by such member, agent, or agency or the Board shall be reduced to writing and filed with the Board. Thereafter, in its discretion, the Board upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaged in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action including reinstatement of employees with or without back pay, as will effectuate the policies of this Act. . . ."

APPENDIX B.

Decision and Order of the National Labor Relations Board dated February 24, 1969

DECISION AND ORDER.

On August 28, 1968, Trial Examiner Gordon J. Myatt issued his Decision in the above-entitled cases, finding that the Respondent had engaged in and was engaging in certain unfair labor practices within the meaning of the National Labor Relations Act, as amended, and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the attached Trial Examiner's Decision. Thereafter, the Union and the Respondent filed exceptions to the Trial Examiner's Decision and supporting briefs.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with these cases to a three-member panel.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed.

1. The Union has requested that the initials "CLC"" be included in the designation of its affiliation. In the absence of objections, we grant its request.

The Board has considered the Trial Examiner's Decision, the exceptions and briefs, and the entire record in these cases, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner,[2] as modified herein.[3]

---

2. The Respondent filed a motion to reopen and consolidate these cases with Cases 9-CA-46148, 9-CA-46392, and 9-CA-47710. We have considered the Respondent's motion and, finding no merit therein, hereby deny it. As for the Respondent's contention of bias and prejudice on the part of the Trial Examiner, we have reviewed the record and find the contention without merit.

We find it unnecessary to pass upon the Charging Party's request that we make certain additional 8(a)(1) findings. Such findings, if made, would be cumulative in nature and would not affect the scope of our Order and Remedy herein because we have already provided a broad cease and desist order protecting all of the employees' Section 7 rights.

3. The capitalized second paragraph of the "Appendix" attached to the Trial Examiner's Decision and Recommended Order is hereby amended to read as follows: This notice is posted pursuant to an order of the National Labor Relations Board issued after a trial in which both sides had an opportunity to present evidence and arguments. The Board found that we violated the National Labor Relation Act and has ordered us to inform our employees of their rights.